

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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REGINALD McDONALD,

Case No. 3:13-cv-00240-MMD-WGC

Plaintiff,

ORDER

v.

OLIVAS, et al.,

Defendants.

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Before the Court are motions filed by plaintiff. (Dkt. nos. 10 & 16.)

I. MOTION TO SUPPLEMENT LIST OF DEFENDANTS (Dkt. no. 10)

On October 22, 2013, the Court entered an order screening the complaint. (Dkt. no. 5.) In analyzing Count 11, the claim of conspiracy, the Court noted that plaintiff made allegations against additional defendants who were named in the body of the complaint, but were not listed as defendants at the beginning of the complaint. (*Id.* at p. 11.) The Court ruled that plaintiff would be required to supplement his list of defendants to include those who are mentioned in Count 11 but are not identified on the initial list of defendants. (*Id.* at pp. 12, 14.)

On October 25, 2013, plaintiff filed a motion to supplement his list of defendants. (Dkt. no. 10.) Plaintiff lists the following additional defendants: Dave Everette, Candis Brockway, Ms. Simmons, Ms. Feil, Mr. Humphrey, Terri Jacobs, Law Library Supervisor, Mail Room Supervisor, and Wendy. (*Id.* at pp. 2-4.) The Clerk of Court is directed to add these defendants to the list of defendants on the CM/ECF docket. In

1 addition, plaintiff's statement of additional defendants, at pages 2-4 of his motion, shall
2 be considered part of the complaint. Plaintiff's motion to supplement his list of
3 defendants is granted.

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5 **II. MOTION FOR RECONSIDERATION RE: APPOINTMENT OF COUNSEL (dkt
no. 16)**

6 In the screening order, filed October 22, 2013, the Court addressed plaintiff's
7 motion for the appointment of counsel and denied the motion. (Dkt. no. 5, at pp. 12-13.)
8 Plaintiff has filed a motion for reconsideration of the denial of his motion for the
9 appointment of counsel. (Dkt. no. 16.) Plaintiff contends that he is unable to afford
10 counsel, the issues in this case are complex, he has no knowledge of the law, and that
11 his incarcerated status makes it difficult for him to litigate this action. (Dkt. no. 16.)

12 A litigant in a civil rights action does not have a Sixth Amendment right to
13 appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 13253 (9th Cir. 1981). In very
14 limited circumstances, federal courts are empowered to request an attorney to
15 represent an indigent civil litigant. The circumstances in which a court will make such a
16 request, however, are exceedingly rare, and the court will make the request under only
17 extraordinary circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-
18 800 (9th Cir. 1986); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986). A
19 finding of such exceptional circumstances requires that the court evaluate both the
20 likelihood of success on the merits and the plaintiff's ability to articulate his claims in pro
21 se in light of the complexity of the legal issues involved. *Id.*; *Terrell v. Brewer*, 935 F.2d
22 1015, 1017 (9th Cir. 1991). Neither of those factors is dispositive and both must be
23 reviewed together in reaching a decision. *Terrell*, 935 F.3d at 1017.

24 In the order denying the appointment of counsel on October 22, 2013, the Court
25 ruled that plaintiff had demonstrated that he is fully able to litigate this case on his own.
26 (Dkt. no. 5, at p. 13.) The Court noted that plaintiff had submitted various documents to
27 the Court, and is perfectly fluent in English. (*Id.*) The Court further found that none of the
28 issues in this case is particularly complex. (*Id.*) This case is similar to the situation in

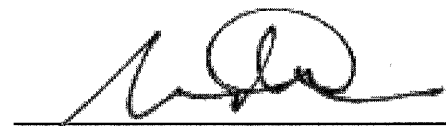
1 *Terrell*, in which the court found that plaintiff “demonstrated sufficient writing ability and
2 legal knowledge to articulate his claim,” that the case did not involve substantial
3 complexity, and the plaintiff had not demonstrated that he was likely to succeed on the
4 merits. *Terrell*, 935 F.2d at 1017. Nothing in plaintiff’s motion for reconsideration causes
5 the Court to change its initial ruling denying the appointment of counsel. The Court does
6 not find exceptional circumstances that warrant the appointment of counsel. Plaintiff has
7 failed to make an adequate showing under either Rule 59(e) or Rule 60(b) to justify
8 granting his motion for reconsideration of the order denying the appointment of counsel.
9 Plaintiff’s motion for reconsideration is denied, and to the extent plaintiff’s motion is
10 construed as a second motion for the appointment of counsel, that request is also
11 denied.

12 **III. CONCLUSION**

13 It is therefore ordered that plaintiff’s motion to supplement his list of defendants
14 (dkt. no. 10) is granted. The Clerk of Court shall add the following defendants to the list
15 of defendants on the CM/ECF docket: Dave Everette, Candis Brockway, Ms. Simmons,
16 Ms. Feil, Mr. Humphrey, Terri Jacobs, Law Library Supervisor, Mail Room Supervisor,
17 and Wendy. Plaintiff’s statement of additional defendants (dkt no. 10, at pp. 2-4), shall
18 be considered part of the complaint.

19 It is further ordered that plaintiff’s motion for reconsideration of the Court’s order
20 denying the appointment of counsel (dkt no. 16) is denied.

21 DATED THIS 6th day of February 2014.



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23 MIRANDA M. DU
24 UNITED STATES DISTRICT JUDGE
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